their divorce or lien and property provisions, without requiring a specific provision carefully including alimony proceedings within its scope. *Rhoades* v. *Rhoades* (1907) 78 Neb. 495, 111 N. W. 122; *Goore* v. *Goore* (1901) 24 Wash. 139, 63 Pac. 1092. Although the facts of the instant case showed that the trustee was duly served with notice of garnishment, which was all the "seizure" possible in this case, the court regarded that as a purely precautionary measure since the proceeding was already *in rem*. *Cf. Pennington* v. *Fourth Natl. Bank* (1917) 243 U. S. 269, 37 Sup. Ct. 282. This theory of the nature of separate maintenance and possibly all alimony actions, has been created by courts to meet the just requirements of marital problems, and has the merit of preventing a guilty husband from escaping his family obligations.

ANIMALS—DEFENCE OF PROPERTY—RELATIVE VALUES.—The defendant killed the plaintiff's pedigreed dog while it was attacking the defendant's guinea hens on his land. *Held,* it was proper for the jury to consider the relative values of the dog and the hens, as they reasonably appeared to the defendant, in determining whether or not the killing was justifiable. *Ex parte Minor* (Ala. 1919) 83 So. 475.

Although it may be necessary for the owner of land to kill a trespassing animal to save his property, his privilege to kill is qualified in jurisdictions which allow the jury to consider the relative values of the property destroyed and protected in determining the reasonableness of the killing. See *Anderson* v. *Smith* (1880) 7 Ill. App. 354, 359; *Nesbett* v. *Wilbur* (1900) 177 Mass. 200, 201, 58 N. E. 586; *McChesney* v. *Wilson* (1903) 132 Mich. 252, 257, 93 N. W. 627. In other jurisdictions, the privilege to kill is unaffected by relative values, and evidence relating thereto is excluded. *Simmonds* v. *Holmes* (1891) 61 Conn. 1, 23 Atl. 702; *Collinson* v. *Wier* (1915) 91 Misc. 501, 154 N. Y. Supp. 951; see *Aldrich* v. *Wright* (1873) 53 N. H. 398, 408. The first view seems unsound in that it compels the defendant to ascertain at his peril the relative values at a time when he must act quickly if at all. The second view fails to recognize that since the social interest frequently outweighs the individual interest, the privilege of defence of property should be accompanied by a liability to be defeated where its exercise would result in an appreciable diminution of wealth to society. In the light of these considerations, the intermediate view taken by the principal case, that relative values are only material when the defendant knew, or, as a reasonable man, ought to have known that the property destroyed was worth more than that saved, seems to be the fairest.

ATTORNEY AND CLIENT—PRIORITY OF ATTORNEY'S LIEN OVER SET-OFF—NEW YORK.—The plaintiffs purchased an assignment of a judgment debt from a third party which they sought to set-off against a judgment previously entered against them by the defendants. The attorneys for the latter objected, claiming that their lien upon their client's judgment was superior. *Held,* the set-off should be granted but subject to the attorney's lien. *Beecher* v. *Vogt Mfg. Co.* (1920) 227 N. Y. 468, 125 N. E. 831.

The controversy as to the relative superiority of the attorney's lien and the adverse party's right of set-off has resulted in a mass of conflicting decisions incapable of reconciliation. In New York, after a sharp conflict between the decisions of Chancellors Kent and Walworth, the superiority of the right of set-off, espoused by Chancellor Kent, pre-

vailed. *Nicol* v. *Nicol* (1836) 16 Wendell 446; Martin v. *Kanouse* (1859) 17 How. Prac. Rep. 146. But the enactment of N. Y. Civ. Code § 66 as now contained in the Judiciary Law, N. Y. Consol. Laws c. 30 (Laws of 1909 c. 35) § 475, providing that the attorney's lien should attach to client's cause of action even before judgment and prevent a settlement before or after judgment to the prejudice of the lien, offered an opportunity for the revival of the opposite view. The act, without apparent justification, was interpreted as making an attorney an equitable assignee of his client's claim and for that reason superior to any right of set-off. *Smith* v. *Cayuga Lake Cement Co.* (1905) 107 App. Div. 524, 95 N. Y. Supp. 236. It would appear that this result is due rather to the inclination of the court than to the effect of the statute. This may be inferred from the fact that, although the lien of the defendant's attorney who sets up no counterclaim is without the purview of the statute and can still be cut off by a settlement before judgment; *Saranac and Lake Placid R. R.* v. *Arnold* (1902) 37 Misc. 514, 75 N. Y. Supp. 1003; aff'd 72 App. Div. 620, 76 N. Y. Supp. 1032; nevertheless when a judgment for costs is obtained in such an action, the attorney's lien, a simple common law right, is no longer subject to the right of set-off. *Agricultural Insurance Co.* v. *Smith* (1906) 112 App. Div. 840, 98 N. Y. Supp. 347. The principal case is a decision of New York's highest court and overrules the older doctrine of *Nicol* v. *Nicol, supra,* which has been the basis of law in many jurisdictions holding the right of set-off superior.

BANKRUPTCY—PROVABLE CLAIMS—UNLIQUIDATED TORT.—Paragraph *a,* § 63 of the Bankruptcy Act (1898), 30 Stat. 562, U. S. Comp. Stat. (1916) § 9647, enumerates the debts which are provable against the bankrupt's estate but makes no mention of unliquidated tort claims. Paragraph *b* declares that unliquidated claims may be liquidated pursuant to an application to the court. *Held,* that the sole purpose of paragraph *b* is to permit unliquidated claims coming within the provisions of paragraph *a* to be liquidated as the court shall direct, and that neither paragraph authorizes proof of unliquidated demands against the bankrupt for fraud and deceit, notwithstanding § 17 of the Act, as amended by Act of February 5, 1903, 32 Stat. 798, U. S. Comp. Stat. (1916) § 9601, providing that a discharge "shall release a bankrupt from all his provable debts except such as are liabilities" for frauds, etc. . . . *Schall* v. *Camors* (1920) 40 Sup. Ct. 135.

While the liquidation of unliquidated claims is provided for under § 63 *b* of the Act, there has been some doubt as to the kind of claims referred to. It was held that paragraph *b* merely provided a procedure for the liquidation of the class of claims covered by paragraph *a* and that therefore tort claims, including fraud, not being within paragraph *a,* were not provable. See *Dunbar* v. *Dunbar* (1903) 190 U. S. 340, 350, 23 Sup. Ct. 757. It has been argued, however, that § 17 must be read in conjunction with § 63 and that "a discharge in bankruptcy shall release a bankrupt from all of his provable debts, except such as . . . are liabilities for obtaining property by false pretenses or false representations" implies that a claim for fraud is a provable debt. See *Clarke* v. *Rogers* (1913) 228 U. S. 534, 33 Sup. Ct. 587. This question was regarded as open as recently as 1904. See *Crawford* v. *Burke* (1904) 195 U. S. 176, 187, 25 Sup. Ct. 9. But since that time there has been an unbroken line of authorities recognizing the inter-